

EXHIBIT 63

1 UNITED STATES DISTRICT COURT

2 MIDDLE DISTRICT OF FLORIDA

3 TAMPA DIVISION

4
5 REBOTIX REPAIR LLC,)

6 Plaintiff,)

7 vs.)

8 INTUITIVE SURGICAL, INC.,)

9 Defendant.)

) Case No. 8:20-cv-02274

) Volume I

) Pages 1 to 165

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16 REMOTE VIDEOCONFERENCED VIDEOTAPED DEPOSITION OF

17 STACEY DONOVAN

18 Seattle, Washington

19 Thursday, May 27, 2021

20
21
22
23 Reported by:

24 ELIZABETH BORRELLI, CSR No. 7844, CCRR, CLR

25 JOB NO. 194720

1 everybody.

2 Then this starts the beginning of media
3 unit No. 1 in the video-recorded deposition of
4 Stacey Donovan in the matter of Rebotix Repair LLC
5 versus Intuitive Surgical, Incorporated, in the
6 United States District Court, Middle District of
7 Florida, Tampa Division. The case file number is
8 8:20-CV-02274.

9 This deposition is being recorded remotely
10 via Zoom on this 27th day of May, 2021. The time on
11 my video monitor is 12 -- 12:16. Again, my name is
12 John M. Reidt. I am the legal video specialist for
13 TSG Reporting, Incorporated, headquartered at 228
14 East 45th Street, Suite 810, New York, New York
15 10017.

16 The court reporter is Liz Borrelli also in
17 association with TSG Reporting.

18 All those present will be noted on the
19 transcript. The court reporter will now swear in
20 the witness and you may proceed.

21 STACEY DONOVAN,
22 having been duly administered
23 an oath in accordance with CCP 2094,
24 was examined and testified as follows:

25 MR. LYON: May we proceed?

EXAMINATION

BY MR. LYON:

Q. Can you please introduce yourself, your name and where you work.

A. Yeah, my name is Stacey Donovan. I work at EvergreenHealth in Kirkland, Washington.

Q. What is EvergreenHealth?

A. It's a hospital.

Q. Is EvergreenHealth a single hospital or a family of hospitals?

A. It's a single hospital.

Q. What is your job title at EvergreenHealth?

A. My current job title is executive director of surgical services.

Q. And what are your responsibilities?

A. I'm responsible for operations of the inpatient and outpatient OR, the comprehensive procedure unit, central sterile supply, and the pre-op clinic.

Q. And do you oversee any other employees at EvergreenHealth?

A. Can you ask that again, please.

Q. Sure. Do you oversee any other employees at Evergreen?

A. I have managers that report directly to

1 me.

2 Q. How many managers report directly to you?

3 A. Seven.

4 Q. Do you understand that you are testifying
5 on behalf of Evergreen today?

6 A. I do.

7 Q. Did you take -- withdrawn.

8 Did you undergo -- withdrawn.

9 Did you take efforts to make sure that you
10 had knowledge on behalf of certain topics that were
11 noticed in deposition for today?

12 A. I did.

13 Q. Do you understand that you're under oath?

14 A. I do.

15 Q. Is there any reason why you can't give
16 truthful and accurate testimony today?

17 A. No, there's not.

18 Q. Are you familiar with Intuitive Surgical?

19 A. Yes, I am.

20 Q. Are you familiar with the da Vinci
21 Surgical System?

22 A. Yes, I'm familiar with it.

23 Q. Does your hospital currently have any da
24 Vinci Surgical Systems?

25 A. Yes, we currently have two.

1 Q. Which models of da Vinci systems do you
2 have at your hospital?

3 A. Currently, two Xi systems.

4 Q. When did Evergreen acquire the two Xi
5 systems?

6 A. 2000 -- December of 2020.

7 Q. And prior to acquiring the Xi systems, did
8 Evergreen have any other da Vinci surgical robots?

9 A. Yes, we did.

10 Q. What did you have?

11 A. Two Si systems.

12 Q. Did the two Xi systems replace the two Si
13 systems?

14 A. Yes, they did.

15 Q. When did Evergreen acquire the two Si
16 systems?

17 A. The first one was acquired in 2009. The
18 second one was acquired in 2012.

19 Q. How long have you personally been employed
20 at Evergreen?

21 A. Since November of 2009.

22 Q. When you arrived in November of 2009, did
23 Evergreen already have one da Vinci Si system?

24 A. Yes, they did.

25 Q. And you were at Evergreen when they

1 purchased the second Si system?

2 A. Yes, I was.

3 Q. I've put into the share folder a document,
4 it's a website printout. It states at the top
5 "EvergreenHealth, da Vinci Surgery
6 (Robot-Assisted)."

7 Ms. Johnson [sic], can you let me know if
8 you have that document in front of you?

9 A. Was that for me? I'm sorry.

10 Q. Yes.

11 A. Oh, okay. Yes, I have it in front of me.

12 MR. LYON: I'd like to mark as Exhibit 1
13 the website printout with "EvergreenHealth, da Vinci
14 Surgery (Robot-Assisted)" at the top. It is a
15 two-page document.

16 (Whereupon Exhibit P1 was
17 marked for identification.)

18 BY MR. LYON:

19 Q. Ms. Donovan, do you recognize Exhibit 1?

20 A. Yes, I do.

21 Q. What is it?

22 A. It appears to be an advertisement of the
23 da Vinci robot surgery at EvergreenHealth.

24 Q. Is Exhibit 1 an advertisement that
25 EvergreenHealth intends to be seen by potential

1 patients?

2 A. Yes.

3 Q. At the bottom of the first page there is
4 the question, "What procedures are being done
5 through da Vinci surgery?"

6 Do you see that?

7 A. I do.

8 Q. Underneath that are a list of various
9 surgeries. Do you see that?

10 A. Yes, I do.

11 Q. Ms. Johnson, what procedures are being
12 done with da Vinci surgeries at Evergreen hospital?

13 A. Can I ask a clarifying question?

14 Q. Certainly.

15 A. Are you wanting me to list the procedures
16 that are currently done from this list?

17 Q. Oh, I'll start without -- from your --
18 from your own knowledge on behalf of Evergreen. You
19 can use this list if it's a reference to help you,
20 but you're not limited to this list. I'm just
21 asking an open-ended question. So I'll -- I'll
22 re-ask a new question. Withdrawn.

23 What procedures are currently done with
24 the da Vinci Surgical System at Evergreen?

25 A. We currently perform robotic-assisted

1 colorectal surgery, robotic-assisted hysterectomy
2 and myomectomies, robotic-assisted nephrectomies,
3 robotic-assisted partial nephrectomies,
4 robotic-assisted prostatectomies, robotic-assisted
5 sacrocolpopexies, robotic-assisted hernia repairs.

6 Q. Are --

7 A. Can I -- can I add one -- I need to add
8 one additional procedure. I apologize. We have
9 done a handful of robotic-assisted thyroid surgeries
10 where the thyroid's removed.

11 Q. Thank you.

12 How many surgeons perform da Vinci
13 surgeries at Evergreen?

14 A. Did you ask me how many?

15 Q. Yes, how many surgeons perform da Vinci
16 surgeries at Evergreen?

17 A. I don't have an exact number. I -- I
18 could make a guess but I don't have an exact number.

19 Q. What would be your best estimate of the
20 number of surgeons that perform da Vinci surgeries
21 at Evergreen?

22 MR. BAILEY: Objection to form.

23 THE WITNESS: My best guess would be 15.

24 BY MR. LYON:

25 Q. And I should have clarified at the

1 beginning. Throughout the course of the day today
2 I'll be asking questions. Pause before you answer;
3 Mr. Bailey may interpose an objection. If you
4 understand the question, you can go ahead and answer
5 the question.

6 A. Okay.

7 Q. Does the fact that your hospital has
8 da Vinci surgical robots help your hospital attract
9 top surgeons?

10 A. Yes, it does.

11 Q. If your hospital no longer had any da
12 Vinci surgical robots, would your hospital lose some
13 top surgeons?

14 MR. BAILEY: Objection to form. Calls for
15 speculation.

16 THE WITNESS: Yes, we would.

17 BY MR. LYON:

18 Q. If your hospital -- withdrawn.

19 Is there an expectations among surgeons
20 that a hospital has at least one da Vinci robot if
21 that hospital is going to be considered a top tier
22 hospital?

23 MR. BAILEY: Objection to form.
24 Foundation.

25 THE WITNESS: I don't know the answer to

1 that.

2 BY MR. LYON:

3 Q. Has Evergreen -- withdrawn.

4 Has Evergreen hospital experienced growth
5 in the number of da Vinci procedures during the past
6 five years?

7 A. I would say the volume has been fairly
8 steady. There's not been a lot of growth.

9 Q. Does Evergreen anticipate there to be
10 growth in the number of da Vinci surgical procedures
11 performed over the course of the next five years?

12 A. We do not.

13 Q. Does Evergreen have any plans to purchase
14 any additional surgical robots in the future?

15 A. We do not currently have plans for that
16 unless there is an upgrade to the system that's
17 currently out.

18 Q. Unless there's an upgrade to one of the
19 da Vinci Xi systems that you currently have?

20 A. That's correct.

21 Q. Are you familiar with EndoWrists?

22 A. I'm sorry, can I -- did you say
23 EndoWrists?

24 Q. Yes. Are you familiar with EndoWrists?

25 A. Yes, I am.